

# APPENDIX E

**FedEx Ground's Appendix E:****Table Identifying a Sample of Declarations Recanted or Contradicted by Deposition Testimony or Revised Declaration<sup>1</sup>**

Driver	Driver Declaration Statement	Driver Deposition Testimony or Subsequent Declaration
Jack Arballo	Not permitted to take breaks and no realistic opportunity for breaks. <sup>2</sup>	Stopped for lunch many times. <sup>3</sup>
Ronald Barsz	"Based on my review of my paystubs, it seemed like my pay did not match up with the number of hours I worked." <sup>4</sup>	Paid regular salary regardless of hours worked. "I don't even know why I made that statement because I was salary." <sup>5</sup>
Alejo Bell	Stated four times that he worked for "LG Logistics." <sup>6</sup>	Admitted that his declaration named the wrong Service Provider. He never worked for LG Logistics. <sup>7</sup>
David Ferras	"I am not paid for the time I was logged as 'sleeper berth.'" <sup>8</sup>	Paid for all miles, including time logged as sleeper berth. About declaration, "I kind of skimmed through it a bit." <sup>9</sup>
Rachel Morfin	"I worked for FedEx from October 2013 to March 2016." <sup>10</sup>	"Yeah, the date is wrong, 2016. It should be 2015." "I don't remember the month. I guess I signed the thing. I messed up on the thing." <sup>11</sup>
Windsor Presley	"The routes, customers, and packages are each determined by FedEx." <sup>12</sup>	Worked as a floater and the routes he drove were assigned by his Service Provider. <sup>13</sup>
Saul Gallegos	"I was only able to take one thirty minutes meal break each day during which I am completely relieved of any duty by the end of the fifth hour of work." <sup>14</sup>	"I don't miss meal and rest breaks and I don't consider FedEx Ground to be my employer." <sup>15</sup>
	"I also have to answer to FedEx's managers at the Rialto, CA FedEx hub, and work and communicate with them on a regular basis." <sup>16</sup>	"I do not know any of the FedEx Ground employees at the locations where I pick up and deliver trailers. None of the FedEx Ground managers or employees direct my activities or how I do things or should do things. The FedEx Ground employees also do not call me when I am making a run, and I don't call them." <sup>17</sup>
	"I . . . wear a FedEx uniform." <sup>18</sup>	"I don't wear FedEx Ground uniforms when making a run. I just wear normal street clothes. I don't even have any FedEx Ground uniforms." <sup>19</sup>
	"FedEx also has rules about timeliness. For example, we have expected 'run times' for our freight transportation. If we return to the hub late, we could get in trouble with FedEx." <sup>20</sup>	"I do not feel pressure to go, go, go. If there is a schedule for the run, I don't even know what it is. We get to our destination when we get there and have not had anyone at FedEx Ground complain to us about arrival times." <sup>21</sup>
Wayne Matthew Williams	"I worked for FedEx from approximately July 2016 to July 2017." <sup>22</sup>	"That is incorrect, because I didn't work for FedEx during the year 2016. . . . I started May of 2017." <sup>23</sup>
	"FedEx loaders would assist me in loading my van." <sup>24</sup>	"But no one would assist me in loading [my van]. I loaded by myself." <sup>25</sup>
	"FedEx's dispatchers and managers would call me to go assist another driver who might be having issues with his or her van to complete their route." <sup>26</sup>	"No one would call me." <sup>27</sup>
	"I worked as a Pickup and Delivery Driver." <sup>28</sup>	"It is inaccurate, right. I never drove their vehicle." Wayne Williams worked as a helper loading and unloading while a Pickup & Delivery driver drove. <sup>29</sup>

**Table Identifying a Sample of Factual Disputes Between Drivers and Authorized Officers**

Driver	Declaration or Deposition Testimony	Authorized Officer Declaration or Deposition Testimony
<b>Gerald Johnson</b>	“I rarely have the opportunity to stop and take off duty rest breaks because of the high volume of work I am required to complete each day.” <sup>30</sup>	<p>“Contrary to what Mr. Johnson has said in his declaration, he was permitted to take, and did take, at least his thirty-minute meal breaks daily.</p> <p>Attached as Exhibit D are true and accurate copies of Mr. Johnson’s handwritten timecards from 2020 and 2021. The documents in Exhibit D show that Mr. Johnson took a 30-minute lunch break each day he worked. He also signed the bottom of each time card verifying its accuracy. His time cards from earlier years also show that Mr. Johnson took a 30-minute lunch break daily.”<sup>31</sup></p>
<b>Rudolfo “Rudy” Ramirez</b>	“Both FedEx managers and my ISP told me to wait until I completed my daily route to take lunch, and then take it ‘whenever I could.’ The delivery schedule I was given was too heavy to afford me an opportunity to take a meal period without missing the assigned delivery windows and times.” <sup>32</sup>	<p>“Attached as Exhibit B is a true and accurate copy of Mr. Ramirez’s timesheet for the period of December 1, 2018 through December 7, 2018. This timesheet shows that Mr. Ramirez clocked-out for a thirty minute lunch break each day, except on December 5th, where he only worked from 8:30 a.m. until 12:00 p.m. His claims that he could not and did not take breaks is false.”<sup>33</sup></p>
	“Even though I worked many overtime hours, I was not paid for these extra hours, much less at a premium rate for them. My ISP boss only paid me a \$580 per week salary regardless of the number of hours I worked on a given week. Given the hours I worked, this came out to less than the California minimum wage.” <sup>34</sup>	<p>“Sheban Express paid Mr. Ramirez an hourly rate, not a weekly rate. Sheban Express also paid Mr. Ramirez overtime. Attached as Exhibit C is a true and accurate copy of a payroll summary for Mr. Ramirez for December 1, 2018 through December 7, 2018. As Exhibit C shows, Mr. Ramirez was paid a regular rate of \$15/hour and an overtime rate of \$22.50 an hour. He worked a total of 22.5 hours, which is far less than the 65 hours per week he said he works.”<sup>35</sup></p>
<b>Dwayne Smith</b>	“I typically worked 5 days per week, 14 or 15 hours a day. During holidays, I worked six days a week and sometimes even 7 days a week if I was overloaded.” <sup>36</sup>	<p>“Mr. Smith’s claims that he ‘typically worked 5 days per week, 14 or 15 hours a day’ and did not have time for meal and rest breaks are completely untrue.’ . . . During the time period for this case, he was typically working during a week anywhere from 22 to 38 hours, and never came close to working 14-15 hours a day.”<sup>37</sup></p>

Driver	Declaration or Deposition Testimony	Authorized Officer Declaration or Deposition Testimony
<b>Tony Warner</b>	“I believe I worked approximately 12 hours a day, maybe more. Over the course of my 5-day workweek, I worked about 60 hours per week.” <sup>38</sup>	“Mr. Warner falsely states that he ‘typically’ worked 12 hours per day and 60 hours per week. He did not. In fact he did not work 60 hours in any single week. Attached as Exhibit A are Mr. Warner’s pay stubs. These documents show that Mr. Warner’s total weekly hours ranged from 22.5 to 53.75 hours.” <sup>39</sup>
	“Even though I worked many overtime hours, I was not paid at a premium rate for them.” <sup>40</sup>	“Mr. Warner’s regular rate was \$9/hour; his overtime rate was \$13.50/hour; and his double overtime rate was \$18/hour. Additionally, Mr. Warner received bonuses once the number of his stops exceeded a specified threshold.” <sup>41</sup>
	“Typically, I made 130 to 140 stops per day. The stops included both deliveries and approximately 35 to 40 pickups.” <sup>42</sup>	“And the number of pickups on his route was closer to one or two per week, not 35 to 40 per day.” <sup>43</sup>

<sup>1</sup> Citations are to the exhibits to the Declaration of Sean F. Daley in Support of FedEx Ground’s Opposition to Class Certification.

<sup>2</sup> Arballo Decl. ¶¶ 24–26, ECF 287-2.

<sup>3</sup> Arballo Dep. 95:21–96:2, Ex. 44.

<sup>4</sup> Barsz Decl. ¶ 23, ECF 287-2.

<sup>5</sup> Barsz Dep. 78:1-25, Ex. 61.

<sup>6</sup> Bell Decl. ¶¶ 6, 13, ECF No. 287-2.

<sup>7</sup> Bell Dep. 71:25–72:19, Ex. 31.

<sup>8</sup> Ferras Decl. ¶ 27, ECF No. 287-2.

<sup>9</sup> Ferras Dep. 68:13–69:24, Ex 36.

<sup>10</sup> Morfin Decl. ¶ 1, ECF No. 287-2.

<sup>11</sup> Morfin Dep. 54:5-15, 71:2-21, Ex. 57.

<sup>12</sup> Presley Decl. ¶ 10, ECF No. 287-2.

<sup>13</sup> Presley Dep. 83:8-22, Ex. 68.

<sup>14</sup> Gallegos Original Decl. ¶ 28, ECF No. 287-2.

<sup>15</sup> Gallegos Corrected Decl. ¶ 6, Ex. 27.

<sup>16</sup> Gallegos Original Decl. ¶ 12, ECF No. 287-2.

<sup>17</sup> Gallegos Corrected Decl. ¶ 9, Ex. 27.

<sup>18</sup> Gallegos Original Decl. ¶ 9, ECF No. 287-2.

<sup>19</sup> Gallegos Corrected Decl. ¶ 11, Ex. 27.

<sup>20</sup> Gallegos Original Decl. ¶ 11, ECF No. 287-2.

<sup>21</sup> Gallegos Corrected Decl. ¶ 13, Ex. 27.

<sup>22</sup> Wayne Williams Decl. ¶ 1, ECF No. 287-2.

<sup>23</sup> Wayne Williams Dep. 58:1–59:10, Ex. 67.

<sup>24</sup> Wayne Williams Decl. ¶ 5, ECF No. 287-2.

<sup>25</sup> Wayne Williams Dep. 60:17-24, Ex. 67.

- <sup>26</sup> Wayne Williams Decl. ¶ 14, ECF No. 287-2.
- <sup>27</sup> Wayne Williams Dep. 72:22–73:12, Ex. 67.
- <sup>28</sup> Wayne Williams Decl. ¶ 3, ECF No. 287-2.
- <sup>29</sup> Wayne Williams Dep. 63:17–64:10, Ex. 67.
- <sup>30</sup> Johnson Decl. ¶ 12, ECF No. 287-2.
- <sup>31</sup> Tenter Decl. ¶ 9, Ex. 12.
- <sup>32</sup> Rodolfo Ramirez Decl. ¶ 7, ECF No. 287-2.
- <sup>33</sup> Sheban Decl. ¶ 8, Ex. 6.
- <sup>34</sup> Rodolfo Ramirez Decl. ¶ 19, ECF No. 287-2.
- <sup>35</sup> Sheban Decl. ¶ 10, Ex. 6.
- <sup>36</sup> Dwayne Smith ¶ 3, ECF No. 287-2.
- <sup>37</sup> Urciaga Decl. ¶ 9, Ex. 9.
- <sup>38</sup> Warner Decl. ¶ 8, ECF No. 287-2.
- <sup>39</sup> Kim Decl. ¶ 7, Ex. 5.
- <sup>40</sup> Warner Decl. ¶ 19, ECF No. 287-2.
- <sup>41</sup> Kim Decl. ¶ 8, Ex. 5.
- <sup>42</sup> Warner Decl. ¶ 7, ECF No. 287-2.
- <sup>43</sup> Kim Decl. ¶ 12, Ex. 5.